

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

RECEIVED  
NEW YORK  
BUCKET UNIT

Shamir Batista

2017 MAR 17 PM 4:53

17CV1994

(To be filled out by Clerk's Office)

Write the full name of each plaintiff.

-against-

New York police DEPARTMENT  
Det. Michael Leclaire #5045  
Det. John M'sherry #2484  
Det. Carlos Pagan #2218

Write the full name of each defendant. If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section IV.

**COMPLAINT**

(Prisoner)

Do you want a jury trial?

Yes    No

**NOTICE**

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

### I. LEGAL BASIS FOR CLAIM

State below the federal legal basis for your claim, if known. This form is designed primarily for prisoners challenging the constitutionality of their conditions of confinement; those claims are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

Violation of my federal constitutional rights

Other:

EXCESSIVE USE OF FORCE

### II. PLAINTIFF INFORMATION

Each plaintiff must provide the following information. Attach additional pages if necessary.

Shanir

First Name

Middle Initial

Batista

Last Name

SAME AS ABOVE

State any other names (or different forms of your name) you have ever used, including any name you have used in previously filing a lawsuit.

349-17-00393

Prisoner ID # (if you have previously been in another agency's custody, please specify each agency and the ID number (such as your DIN or NYSID) under which you were held)

VERNON C. BAIN CENTER

Current Place of Detention

1 Halleck Street

Institutional Address

BRONX

County, City

N.Y.

State

10474

Zip Code

### III. PRISONER STATUS

Indicate below whether you are a prisoner or other confined person:

Pretrial detainee

Civilly committed detainee

Immigration detainee

Convicted and sentenced prisoner

Other: \_\_\_\_\_

DO OVER.

#### IV. DEFENDANT INFORMATION

To the best of your ability, provide the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are identical to those listed in the caption. Attach additional pages as necessary.

Defendant 1:

<u>New York</u>	<u>Police Department</u>	
First Name	Last Name	Shield #

Current Job Title (or other identifying information)

Current Work Address

County, City	State	Zip Code
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Defendant 2:

<u>Def. Michael</u>	<u>Leclair</u>	<u>5045</u>
First Name	Last Name	Shield #

Current Job Title (or other identifying information)

Current Work Address

County, City	State	Zip Code
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Defendant 3:

<u>John</u>	<u>M'SHERRY</u>	<u>2484</u>
First Name	Last Name	Shield #

Detective

Current Job Title (or other identifying information)

Current Work Address

County, City	State	Zip Code
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Defendant 4:

<u>CARLOS</u>	<u>PAGAN</u>	<u>2218</u>
First Name	Last Name	Shield #

Detective

Current Job Title (or other identifying information)

Current Work Address

County, City	State	Zip Code
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V. STATEMENT OF CLAIM

Place(s) of occurrence: BETWEEN 180<sup>st</sup> & 181<sup>st</sup> AUDOBON AVE

Date(s) of occurrence: 1 / 12 / 17

FACTS:

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and how each defendant was personally involved in the alleged wrongful actions. Attach additional pages as necessary.

I was approached by two (2) individuals who appeared menacing in nature they said you know what it is " like they were going to rob me so I took a defensive stance and they tackled me trying to turn me on my stomach after several failed attempts I was strucked several times in my face by the individual I later found out was def. Michael Leclair #5045 and was tasered by his partner during this whole encounter neither of them identified themselves as police.

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INJURIES:

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

my face and eye (left) was SERVERLEY  
DAMAGED. SEE ATT.

VI. RELIEF

State briefly what money damages or other relief you want the court to order.

I'M SEEKING \$ 250,000 " IN MONETARY  
COMPENSATION FOR PAIN AND SUFFERING )



COLUMBIA UNIVERSITY  
MEDICAL CENTER

Discover. Educate. Care. Lead.

**Emergency Department**  
622 West 168th Street • New York, NY 10032  
[www.nyp.org](http://www.nyp.org)

NewYork-Presbyterian Hospital  
Columbia University Medical Center

Main Adult  
Emergency Dept.  
**(212) 305-6204**

## EXITCARE® PATIENT INFORMATION

Patient Name: SHAMIR BATISTA

Attending Caregiver:

# Facial or Scalp Contusion

A facial or scalp contusion is a deep bruise on the face or head. Injuries to the face and head generally cause a lot of swelling, especially around the eyes. Contusions are the result of an injury that caused bleeding under the skin. The contusion may turn blue, purple, or yellow. Minor injuries will give you a painless contusion, but more severe contusions may stay painful and swollen for a few weeks.

### CAUSES

A facial or scalp contusion is caused by a blunt injury or trauma to the face or head area.

### SIGNS AND SYMPTOMS

- Swelling of the injured area.
- Discoloration of the injured area.
- Tenderness, soreness, or pain in the injured area.

### DIAGNOSIS

The diagnosis can be made by taking a medical history and doing a physical exam. An X-ray exam, CT scan, or MRI may be needed to determine if there are any associated injuries, such as broken bones (*fractures*).

### TREATMENT

Often, the best treatment for a facial or scalp contusion is applying cold compresses to the injured area. Over-the-counter medicines may also be recommended for pain control.

### HOME CARE INSTRUCTIONS

- Only take over-the-counter or prescription medicines as directed by your health care provider.
- Apply ice to the injured area.
  - Put ice in a plastic bag.
  - Place a towel between your skin and the bag.
  - Leave the ice on for 20 minutes, 2–3 times a day.

### SEEK MEDICAL CARE IF:

- You have bite problems.
- You have pain with chewing.
- You are concerned about facial defects.

### SEEK IMMEDIATE MEDICAL CARE IF:

- You have severe pain or a headache that is not relieved by medicine.
- You have unusual sleepiness, confusion, or personality changes.

- You throw up (*vomit*).
- You have a persistent nosebleed.
- You have double vision or blurred vision.
- You have fluid drainage from your nose or ear.
- You have difficulty walking or using your arms or legs.

**MAKE SURE YOU:**

- Understand these instructions.
- Will watch your condition.
- Will get help right away if you are not doing well or get worse.

Document Released: 1/25/2006 Document Revised: 10/8/2014 Document Reviewed: 7/31/2014

ExitCare® Patient Information, ©2015 ExitCare, LLC. This information is not intended to replace advice given to you by your health care provider. Make sure you discuss any questions you have with your health care provider.

I request and hereby authorize Columbia University Medical Center to send a copy of my discharge instructions from the Emergency Department to my physician and it is my responsibility to follow-up after discharge with my doctor.

Patient or Guardian Signature: \_\_\_\_\_ Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

**Signature acknowledges that Patient and/or Guardian has received these instructions and understands them.**

Patient or Guardian Signature	Date/Time	Witnessed & Instructed by	Date/Time
<b>Columbia University Medical Center • General Information • (212) 305-6204</b>			

## VII. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I understand that if I file three or more cases while I am a prisoner that are dismissed as frivolous, malicious, or for failure to state a claim, I may be denied *in forma pauperis* status in future cases.

I also understand that prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions, 42 U.S.C. § 1997e(a), and that my case may be dismissed if I have not exhausted administrative remedies as required.

I agree to provide the Clerk's Office with any changes to my address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

3/4/17  
Dated

Shamir  
First Name

Middle Initial

Shamir Batista  
Plaintiff's Signature

BATISTA  
Last Name

1 Halleck Street  
Prison Address

BRONX  
County, City

N.Y.  
State

10474  
Zip Code

Date on which I am delivering this complaint to prison authorities for mailing:

Shamir Batista #349-17-00393  
1 Halleck Street  
BRONX N.Y. 10474



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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
DANIEL PATRICK MOYNIHAN  
UNITED STATES COURTHOUSE  
500 PEARL STREET  
NEW YORK, N.Y. 10007-1312

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APR 3

Pro Se  
GP